

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
(3:09-cr-39-FDW-5)**

**UNITED STATES OF AMERICA,)
vs.)
MICHAEL GREENE,)
Defendant.)**

ORDER

This matter is before the Court on Defendant's Motion to Change Venue, (Doc. No. 806), and Motion for New Trial, (Doc. No. 857).

Defendant Michael Greene was convicted after a jury trial of one count of conspiracy to distribute and possess with intent to distribute one or more controlled substances, in violation of 21 U.S.C. §§ 841(a)(1), 846, 851, and one count of conspiracy to commit bank robbery, in violation of 18 U.S.C. § 1951. On direct appeal, the Fourth Circuit Court of Appeals affirmed the convictions but vacated the sentence and remanded for resentencing. On remand, this Court denied Defendant's motion for a new trial without an evidentiary hearing. The Court resentenced Defendant to forty years of imprisonment for the drug conspiracy and to twenty years of imprisonment for the robbery conspiracy, to run consecutively. Defendant appealed, and the Fourth Circuit affirmed his conviction and sentence on August 18, 2014.

On August 25, 2015, Defendant filed the pending, pro se motion to change venue, in which Defendant argues that this action should be transferred to a different venue based on "extreme criminal conduct and civil rights violations, perpetrated, in part, by this Court and Chief Judge Frank Whitney." (Doc. No. 806 at 1).

On September 9, 2015, Defendant filed a motion to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255, which this Court denied and dismissed on the merits on January 12, 2017. On December 29, 2017, Defendant filed the pending motion for new trial, in which he makes various assertions regarding alleged judicial misconduct by the undersigned.

Defendant's motions are denied. First, as to Defendant's motion to change venue, which was filed after Defendant was convicted and after the Fourth Circuit affirmed Defendant's conviction and sentence following remand, the motion to change venue is denied as untimely and as frivolous, as Defendant's allegations of misconduct by the Court and the undersigned are wholly conclusory. Furthermore, the Court has already addressed and denied Defendant's motion to recuse filed in his action on his Section 2255 petition. See (Civ. No. 3:15cv420, Doc. No. 50).

Next, as to Defendant's pending motion for new trial, pursuant to Fed. R. Crim. P. 33, Defendant merely reasserts many of the same arguments regarding judicial misconduct that this Court has already rejected in his motion to recuse. Furthermore, to the extent that Defendant attempts to attack his underlying conviction and sentence in his motion for new trial, this amounts to a successive, unauthorized petition.

IT IS THEREFORE ORDERED that Defendant's Motion to change Venue, (Doc. No. 806), and Motion for New Trial, (Doc. No. 857), are **DENIED**.

Signed: January 3, 2018



Frank D. Whitney
Chief United States District Judge

